SEP 0.3 2008

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Applicant Initiated Interview Request Form

Application No.: __10/699,871__   First Named Applicant: __Todd C. Werden__

Examiner: __Tawaad Haider__   Art Unit: 3627   Status of Application: __Under Final Rejection__

Tentative Participants:
(1)__Mary E. Goulet (Reg. No. 35, 884)__   (2)_____

(3)_____   (4)_____

Proposed Date of Interview: __Sept. 5, 2008__   Proposed Time: __1:00__   (AM/PM)

Type of Interview Requested:
(1) [X] Telephonic   (2) [ ] Personal   (3) [ ] Video Conference

Exhibit To Be Shown or Demonstrated: [ ] YES   [X] NO
If yes, provide brief description: _____

Issues To Be Discussed

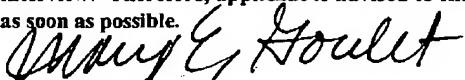| Issues (Rej., Obj., etc.)	Claims / Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Objection	1	N/A	[ ]	[ ]	[ ]
(2) 103(a) Rejection	1	Swartz, Rafii	[ ]	[ ]	[ ]
(3)			[ ]	[ ]	[ ]
(4)			[ ]	[ ]	[ ]

[ ] Continuation Sheet Attached

Brief Description of Arguments to be Presented:
Please see the attached draft 116 Amendment.

_____

_____

An interview was conducted on the above-identified application on _____ .

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant / Applicant's Representative Signature	Examiner / SPE Signature
Mary E. Goulet	
Typed/Printed Name of Applicant or Representative	
35,884	
Registration Number, if applicable	

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of	Confirmation No. 5120
Todd C. Werden	Group Art Unit 3627
Serial No. 10/699,871	Examiner Fawaad Haider
Filed November 24, 2003	

For: BUSINESS SYSTEM AND METHOD FOR A
        VIRTUAL POINT OF SALE SYSTEM IN A
        RETAIL STORE

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

DRAFT

AMENDMENT UNDER 37 C.F.R. §1.116

Sir:

This responds to the Office Action mailed Jul 24, 2008.

The listing of the claims begins at page 2 of this paper.

The "Remarks" section begins at page 4 of this paper.

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LISTING OF THE CLAIMS:

1   1. (Currently Amended) A virtual Point-of-Sale (POS) system for a retail store

2   comprising:

3   a remote activator device carried by a sales associate and connected by a computer

4   network installed in the retail store to a computer with installed back office application

5   software for at least one of accounting and inventory;

6   a positioning system which recognizes a signal from the remote activator device

7   and determines where and how to find a ~~an appropriate~~ blank surface near the sales

8   associate's actual location;

9   an integrated projector and camera assembly responsive to the positioning system

10   and which rotates to a correct position and displays a POS application on ~~a~~ the blank

11   surface near the location of the sales associate, the camera assembly detecting entries in

12   the POS application by the sales associate as interactions with the displayed POS

13   application;

14   a scanner used by the sales associate for scanning merchandise codes to enter

15   purchases in the displayed POS application; and

16   a magnetic stripe reader for reading a credit or debit card to complete transaction

17   in the displayed POS application.

1   2. (Original) The virtual Point-of-Sale (POS) system for a retail store recited in claim 1,

2   wherein said remote activator device, said scanner and said magnetic stripe reader are

3   each part of an integrated device carried by the sales associate.

1   3. (Original) The virtual Point-of-Sale (POS) system for a retail store recited in claim 2,

2   wherein in the integrated device further includes a printer for printing a sales receipt.

1   4. (Original) The virtual Point-of-Sale (POS) system for a retail store recited in claim 1,

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2   wherein the signal from the remote activator is a wireless signal conforming to a

3   standardized protocol.

1   5. (Original) The virtual Point-of-Sale (POS) system for a retail store recited in claim 1,

2   wherein the positioning system uses a positioning algorithm to determine where and how

3   to find a blank surface near the sales associate's actual location.

1   6. (Original) The virtual Point-of-Sale (POS) system for a retail store recited in claim 1,

2   wherein the remote activator device transmits location information to the positioning

3   system for use in determining where and how to find a blank surface near the sales

4   associate's actual location.

7-10. (Canceled)

1   11. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store

2   recited in claim 1, wherein said computer is a server.

1   12. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store

2   recited in claim 1, wherein said computer is connected to a credit card processor.

1   13. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store

2   recited in claim 11, wherein the computer connection to the credit card processor is made

3   using a dial-up network.

1   14. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store

2   recited in claim 11, wherein the computer connection to the credit card processor is made

3   using a VPN.

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1   15. (Previously Presented)   The virtual Point-of-Sale (POS) system for a retail store
2   recited in claim 11, wherein the credit card processor is connected to at least one of an
3   outside bank and an outside credit institution.

1   16. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store
2   recited in claim 2, wherein said integrated device further comprises a keypad.

1   17. (Previously Presented) The virtual Point-of-Sale (POS) system for a retail store
2   recited in claim 15, wherein said keypad may be used for entering a PIN number.

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REMARKS

Claims 1-6 and 10-17 are currently pending in the application. Claim 1 is amended above.

In paragraph 1 of the office action, an objection has been made to the term "appropriate" in claim 1. To advance prosecution, the objected-to word has been deleted. *See, e.g.*, Applicant's specification at page 3, lines 14-15 ("a blank space").

In paragraph 2 of the office action, a proposal has been made to replace "camera" with "camera assembly" for which there is antecedent basis. Above Claim 1 has been amended as suggested by the Examiner on this point.

Claims 1-6 and 11-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Rafii. The Examiner admits that Swartz fails to disclose a positioning system and an integrated projector and camera assembly. (Final office action, page 3.)

Applicants respectfully traverse the obviousness rejection.

A person of ordinary skill in Applicants' art at the time of the invention would not have read Swartz and Rafii in the manner proposed by the Examiner. Rather, the natural, objective thinking of such a person would have been as follows.

The person of ordinary skill in the art sees that Swartz is directed to a portable self-service check-out terminal. Referring to Fig. 1, there is a device which can be carried around a store and pointed at bar codes 10. The Swartz concept projects that the consumers themselves will do the scanning as they walk about the store. A person of ordinary skill in the art at the time of Applicants' invention is thinking that when a consumer is to be doing the scanning of to-be-purchased items himself, simplicity of the scanning event is needed. Swartz provides for simplicity, in that all that is expected of the consumer is to point the portable scanner at the bar coded items as the consumer walks about the store, reducing the number of items that the cashier has to process.

First, the person of ordinary skill in the art simply would not think to try to complicate things for the consumer in Swartz by introducing from Rafii a requirement for

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the consumer to walk about the store creating a virtual keyboard. Moreover, a person of ordinary skill in the art would recognize that the kinds of stores in which a consumer self-check-out could be used are at the same time the kinds of stores that by their nature are full of consumers and to-be-sold products; there simply is not physical space as a practical matter for consumers to be setting up virtual keyboards all over the place. A person of ordinary skill in the art would recognize that grocery consumers are in each others' way quite enough already as it is and that there is a societal expectation that shoppers will obtain their items and move out of the way rather promptly. Shoppers will not have patience for other shoppers' setting up virtual keyboards throughout the store. A modification to Swartz which would both complicate matters for the consumer and require the store to make all sorts of changes to its shelving and surface areas throughout the store simply would not be a direction that a person of ordinary skill in the art would go.

Applicants' claim 1 is substantially removed from Swartz and is quite out of reach of a person of ordinary skill in the art at the time of Applicants' invention, such a person of course not having the benefit of Applicants' specification and claims. A person of ordinary skill in the art reading Swartz would lack motivation to gut Swartz' focus on reducing cashier workload (i.e., by getting simple portable scanners in the hands of shoppers) and would lack motivation to reintroduce the very thing that Swartz is trying to reduce and avoid (namely, the cashier's participation). To such a person of ordinary skill in the art, Swartz and Rafii would simply be read as separate concepts.

Reconsideration and withdrawal of the obviousness rejection are respectfully sought.

In view of the foregoing, Applicant submits that Claims 1-7 and 10-16 are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if

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required. Please charge any deficiencies in fees and credit any overpayment of fees to

Applicants' Deposit Account No. 50-0510 (IBM Corporation).

Respectfully submitted,

Mary E. Goulet
Registration No. 35,884

Whitham, Curtis Christofferson & Cook, P.C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190
Tel. (703) 787-9400
Fax. (703) 787-7557